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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

BRECKENRIDGE PROPERTY
FUND 2015, LLC,

Plaintiff,

v.

JOANE CASTANEDA, et al.,

Defendants.

Case No. CV 16-00766 JAK (RAOx)

**ORDER REMANDING ACTION
AND DENYING APPLICATION
TO PROCEED WITHOUT
PREPAYING FEES OR COSTS**

I.

FACTUAL BACKGROUND

Plaintiff Breckenridge Property Fund 2015, LLC (“Plaintiff”) filed an unlawful detainer action in Los Angeles County Superior Court against Joane Castaneda, and Does 1 to 10 (“Defendants”) on or about December 30, 2015. Notice of Removal (“Removal”) & Attached Complaint for Unlawful Detainer (“Compl.”), Dkt. No. 1. Defendant is allegedly a holdover occupier of real property located in Torrance, California (“the property”). Compl., ¶¶ 3, 8-10. Plaintiff is the owner of the property. *Id.* at ¶ 4.

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1 Defendant Castaneda filed a Notice of Removal on February 3, 2016,
2 invoking the Court's federal question jurisdiction. Removal at 2. The same day,
3 Defendant Castaneda filed an Application to Proceed Without Prepaying Fees or
4 Costs. Dkt. No. 3.

II.

DISCUSSION

7 Federal courts are courts of limited jurisdiction, having subject matter
8 jurisdiction only over matters authorized by the Constitution and statute. *See, e.g.*,
9 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128
10 L.Ed.2d 391 (1994). It is this Court’s duty always to examine its own subject
11 matter jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235,
12 163 L.Ed.2d 1097 (2006), and the Court may remand a case summarily if there is
13 an obvious jurisdictional issue. *Cf. Scholastic Entm’t, Inc. v. Fox Entm’t Grp., Inc.*,
14 336 F.3d 982, 985 (9th Cir. 2003) (“While a party is entitled to notice and an
15 opportunity to respond when a court contemplates dismissing a claim on the merits,
16 it is not so when the dismissal is for lack of subject matter jurisdiction.”) (omitting
17 internal citations). A defendant attempting to remove an action from state to
18 federal court bears the burden of proving that jurisdiction exists. *See Scott v.*
19 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further, a “strong presumption”
20 against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th
21 Cir. 1992).

22 Here, the Court's review of the Notice of Removal and the attached
23 Complaint makes clear that this Court does not have federal question jurisdiction
24 over the instant matter. There is no federal question apparent on the face of
25 Plaintiff's complaint, which alleges only a simple unlawful detainer cause of action.
26 *See Wescom Credit Union v. Dudley*, No. CV 10-8203 GAF (SSx), 2010 WL
27 4916578, *2 (C.D.Cal. Nov. 22, 2010) ("An unlawful detainer action does not arise
28 under federal law.") (citation omitted); *IndyMac Federal Bank, F.S.B. v. Ocampo*,

1 No. EDCV 09-2337 PA(DTBx), 2010 WL 234828, at *2 (C.D.Cal. Jan. 13, 2010)
2 (remanding an action to state court for lack of subject matter jurisdiction where
3 plaintiff's complaint contained only an unlawful detainer claim). Thus, Plaintiff
4 could not have brought this action in federal court, in that Plaintiff does not allege
5 facts supplying federal question jurisdiction, and therefore removal was improper.
6 *See* 28 U.S.C. 1441(a); *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392, 107 S.Ct.
7 2425, 2429, 96 L.Ed.2d 318 (1987) ("Only state-court actions that originally could
8 have been filed in federal court may be removed to federal court by the defendant.")
9 (footnote omitted).

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III.

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CONCLUSION

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Accordingly, IT IS ORDERED that this case is REMANDED to the Superior Court of California, County of Los Angeles, forthwith.

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IT IS FURTHER ORDERED that Defendant's Application to Proceed Without Prepaying Fees or Costs is DENIED as moot.

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IT IS SO ORDERED.

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DATED: 2/8/16



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JOHN A. KRONSTADT
UNITED STATES DISTRICT JUDGE

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Presented by:

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Rozella A. Oliver
ROZELLA A. OLIVER
UNITED STATES MAGISTRATE JUDGE

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